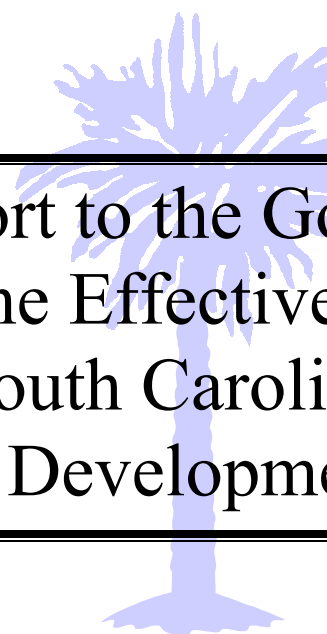


CAPACITY DEVELOPMENT

for technical, managerial, & financial viability of
Public Water Systems



Report to the Governor On the Effectiveness of South Carolina's Capacity Development Strategy

September 2002



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Introduction

In 1996 the Federal Safe Drinking Water Act (SDWA) was amended to include a new provision called "Capacity Development". Section 1420(a) of the Act required that states develop and implement a strategy to assist public water systems in acquiring and maintaining technical, managerial and financial capacity or lose a portion of the monies allotted for the State's drinking water revolving loan fund.

With regard to the federal SDWA, "capacity" is the ability of a public water system to consistently provide safe drinking water for its customers. To consistently provide safe drinking water, a system must have the technical, managerial and financial capacity to meet state and federal drinking water regulations.

Technical capacity refers to the physical infrastructure of the water system, including but not limited to source water adequacy, infrastructure adequacy (including wells and/or other source water intakes, treatment, storage, and distribution), and the ability of system personnel to implement the requisite technical knowledge.

Managerial capacity refers to the management structure of the water system, including but not limited to ownership accountability, staffing and organization, and effective linkages.

Financial capacity refers to the financial resources of the water system, including but not limited to revenue sufficiency, creditworthiness and fiscal controls.

South Carolina began working on developing its strategy in 1993 when it adopted the term "viability" to describe a system's "capacity". These two terms will be used interchangeably throughout this report. As a result of its early efforts, South Carolina received early EPA approval of its Strategy. In his approval letter, EPA's Regional Administrator commended South Carolina for giving such priority to its Capacity Development program, and noted South Carolina as the first state in the nation "to achieve this noteworthy accomplishment".

A copy of South Carolina's Capacity Development Strategy is maintained on South Carolina Department of Health and Environmental Control's (DHEC) web site at <http://www.scdhec.net/water/html/capacitydev.html>.

Implementation and Effectiveness of the Capacity Development Strategy

South Carolina's strategy consists of several initiatives, some of which have been in existence for several decades (e.g., construction permitting and sanitary surveys), and others which have been more recently developed and implemented (e.g., operating permits and business planning process). The following is a brief discussion of each initiative and how effective it has been toward improving the technical, managerial and financial capacity of public water systems in South Carolina.

Annual Fee and Water Quality Monitoring Programs

Probably the most important element of the State's strategy is the Safe Drinking Water Act Annual Fee Program. Without this program, DHEC would not have the funds necessary to carry out all of the remaining elements of the strategy. The primary goal of this program was to provide DHEC the funding necessary to continue its very successful water quality monitoring program.

During the 1970s and most of the 1980s, DHEC was able to conduct chemical and radionuclide monitoring, as required by the federal regulations, using state-appropriated funds. However with the passage of the 1986 amendment to the federal SDWA, water quality monitoring requirements skyrocketed. With the increasing requirements, DHEC needed a substantial increase in funding to continue its monitoring services. Without such services, most of the small systems in the state would have been unable to comply with the new requirements because they could not afford the cost of monitoring.

In 1993, the State's SDWA was amended to authorize DHEC to collect an annual fee to provide the funds necessary to comply with the federal SDWA. The effectiveness of this program can be seen through the comparison of monitoring and reporting violations incurred by systems in South Carolina to those in another South Eastern State, which does not have a monitoring fee program. EPA's national database for the period from October 1, 2000 through September 30, 2001 indicates that 17% of the systems in South Carolina had at least one monitoring/reporting violation, compared to 51% in the other State.

Construction Permitting Program

The construction permitting program is one of the historical programs on which the strategy was built. This program has been used as an effective tool for several decades in evaluating the technical capacity of new public water systems and the modifications and expansions of existing water systems. DHEC continues to enhance the effectiveness of this program through the promulgation of new, and the modification of existing, design standards and permitting procedures in the State Primary Drinking Water Regulations (SPDWR). Since 1993 the design and permitting regulations have been revised three times (1995, 1998 and 2002). Numerous stakeholder meetings were held to develop, and receive input on, proposed revisions to the regulations. These meetings not only helped in drafting revised regulations, they also greatly improved relationships between DHEC staff and the regulated community.

When the SDWA was being amended to authorize the collection of an annual fee, there was a concern over a continuing proliferation of small water systems. This concern was well justified, since the larger systems would subsidize the cost of monitoring and other services provided to the small systems. Therefore, the 1993 amendments included a provision granting DHEC the authority to deny a construction permit to any new water system that is unable to demonstrate its viability or where connecting to an existing public water system is feasible. The permitting procedures of the SPDWR were amended in 1995 and 1998 to include this provision.

The primary goal of this provision was to minimize the proliferation of small water systems, thus reducing the drain on State resources and the need for future increases to the annual fees. Figure 1 and Table 1 below illustrate the effectiveness of this provision.

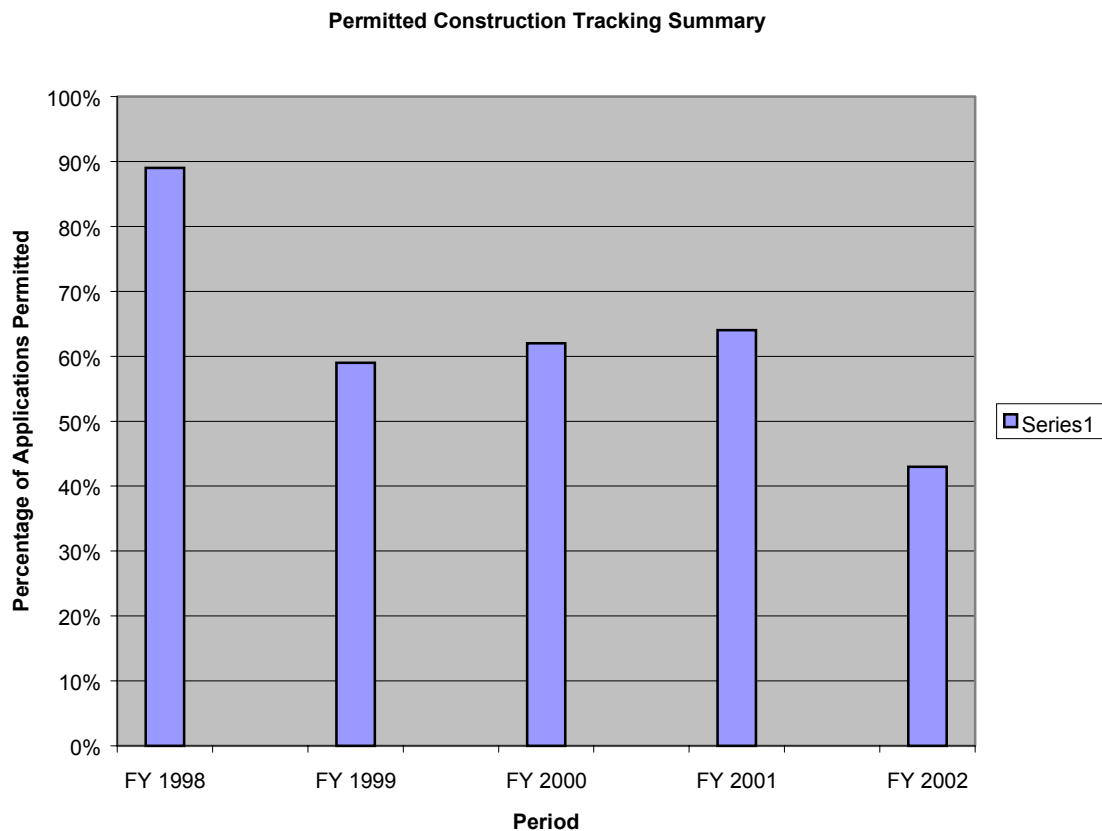


Figure 1: Percentage of applications for state-defined water systems that received construction permits.

	CWS	NTNCWS
Number of Applications Received (7/1/97 - 6/30/02)	25	19
Number of Construction Permits Issued (Follow-up or One-Step)	12	9
Number of Applications Pending Construction Permit Decision (Test Permits)	6	1
Number of Construction Permit Applications Denied	0	0
Number of Construction Permit Applications Dead-Filed	7	9
Number of Operating Approvals	8	8

Table 1: Statistical summary of the status of applications for new community water systems (CWS) and non-transient, non-community water systems (NTNCWS) received between July 1, 1997 and June 30, 2002.

DHEC prepares and submits to EPA an annual report documenting South Carolina's efforts to ensure that proposed new community water systems and non-transient, non-community water systems demonstrate technical, managerial and financial capacity prior to receiving a permit to construct and approval to commence operations. This report can be found on DHEC's web site at www.scdhec.net/water/pubs/capdevauthority.pdf.

DHEC has not had to officially deny a construction permit for any of the proposed new community and non-transient, non-community water systems; however, a number of the projects have been "dead-filed". These projects were either withdrawn by the applicant due to the inability to demonstrate technical, managerial or financial capacity, or the applicant realized that it was feasible to connect to an existing water system. Prior to the new capacity development requirements, most of these projects would have received a permit to construct, thus further proliferating non-viable water systems.

Although the above figure and table show a significant decrease in the number of construction permits issued versus applications received, it does not represent the true reduction in the number of new systems permitted. As a part of the capacity development program, DHEC staff has become more involved during the design phase of a proposed water system. This involvement has resulted in a number of applicants deciding to either connect to an existing system or choosing another alternative.

Sanitary Survey Program

The State's Sanitary Survey Program is another historic program that DHEC used to build its capacity development strategy. The inspection program primarily focuses on the technical and managerial capacity of existing systems to continuously supply safe drinking water to the public. Following each inspection the system is assigned an overall rating of "satisfactory", "needs improvement" or "unsatisfactory". An unsatisfactory rating is an indication that a system lacks the technical, managerial and/or financial capacity to consistently comply with

the State SDWA and triggers the requirement for the system to develop a business plan for submission to DHEC for approval.

Business Planning Process

DHEC has implemented the use of the business planning process as an effective means of evaluating the technical, managerial and financial capacity of existing systems. A guide for developing a business plan for an existing system can be found on DHEC's web site at www.scdhec.net/water/pubs/business.pdf. All water systems are encouraged to prepare and maintain an up-to-date business plan.

To facilitate the implementation of the business planning process, DHEC has set aside a portion of its allocation from the State Revolving Loan Fund (SRF) to fund a technical assistance program for small water systems. The federal SDWA allows states to set aside an amount not exceeding two percent of each annual Drinking Water SRF capitalization grant to fund this program. On May 9, 2000, the Department contracted with Force & Associates, Inc. of Lexington, SC, to provide one-on-one technical assistance to small water systems that request help in developing a business plan.

The water systems that are eligible for technical assistance under this program are those federally defined systems that serve populations of no more than 10,000. The technical assistance provider is contractually required to send an informational brochure, describing the benefits of this program, to each eligible water system annually. Water systems may enroll in the program by responding to the brochure, or systems can be referred by DHEC through the operating permit issuance process, or referred either by DHEC's Enforcement Division or any DHEC Environmental Quality Control (EQC) district office. The technical assistance provider prioritizes systems in the program to address the more critical needs faster. Since its inception, 52 existing systems have received technical assistance under this program.

Operating Permit Program

In 1998 the SPDWR were revised to include provisions for an operating permit program. This program is the mechanism used to require systems that receive an overall unsatisfactory rating on a sanitary survey to prepare and submit a business plan to DHEC for review and approval.

Once an operating permit is issued to a system, it is non-transferable, except with prior approval of DHEC. On a case-by-case basis, DHEC may request that the proposed new owner submit a business plan to show how the system will be managed to ensure its long-term viability. This provision has proven to be beneficial in assuring continued water system viability when a system is sold. One such example of this is the sale earlier in 2002 of the Duke Water System to two entities, the Anderson Regional Water System and the City of Anderson.

The operating permit program has also been effective in preventing the transfer of troubled water systems to a new owner lacking capacity. One example of this was the proposed sale

of the Startex Water System in Spartanburg County to a private entity. The business plan prepared by the buyer's consulting engineering firm concluded that the water system would not become viable. Therefore the transfer of the operating permit was denied. DHEC recently obtained an order from the circuit court appointing a temporary receiver for the water system. While the temporary receiver is in place, DHEC will work toward a feasible disposition of the water system.

Interaction with Other State Agencies

DHEC works closely with the South Carolina Public Service Commission (PSC) staff on regulatory issues involving water systems and with the Budget and Control Board, Office of Local Government, in securing loans and other funding facilities for water systems.

The PSC only has jurisdiction over privately owned water systems in South Carolina. The Commission publishes dockets of upcoming cases that have been filed by its regulated water systems requesting rate increases, establishing rate structures or tap fees, requesting service area changes, water system abandonment or to sell a water system. DHEC has intervened in cases where the requesting system has unresolved enforcement issues or a history of compliance problems. DHEC and PSC staffs work closely to help assure the viability of those systems regulated by the PSC.

Coordination with Local Governments

DHEC is developing statewide service area maps that will delineate boundaries for water system service areas. These maps will provide two benefits: To prevent projects from becoming new water systems that should have connected to existing water systems, and to prevent overlapping service areas of entities having legal authority to grant franchises. Each municipality and water district has been asked to submit its service area map in either an electronic or paper version for installation on the Department's GIS system. After this project is completed, the GIS system will have full statewide coverage of water supply service territories.

Encourage and Facilitate the Consolidation and Regionalization of Public Water Systems

One of the recommendations made by the stakeholder work groups to enhance the viability of public water systems is to take advantage of the economies of scale through the consolidation or regionalization of water systems. Several of the initiatives mentioned above have been developed with this concept in mind. However, another initiative recently adopted by DHEC and the Budget and Control Board is the use of the SRF program to encourage viable water systems to assume ownership and operation of abandoned community water systems. The SRF program will soon offer an interest rate of 1.5 percentage points below its already low standard rate toward this purpose. This incentive rate will apply to the cost of replacing or upgrading infrastructure necessary to insure compliance with the SDWA, but only to that portion of cost directly attributable to serving the existing population.

Conclusion

The State of South Carolina is proud to have been a pioneer and a national leader in capacity development, and is pleased that an added benefit of the development process has been more effective communication and cooperation between the water systems and DHEC. DHEC considers the Capacity Development Strategy to be a work in progress and continues to develop new, and refine existing, initiatives to enhance the viability of South Carolina's public water systems.